

THE HON'BLE SRI JUSTICE N.V. RAMANA

-
W.P. No. 23105 of 2003

-
Oral order:

The petitioner, assailing the proceedings dated 18.10.2003, passed by the 1st respondent, placing her under suspension pending enquiry into the irregularities alleged against her, filed the present writ petition.

The petitioner claims that she is a contract labour, having worked with one Marupudi Anjaneyulu, Civil & Electrical Contractor, Ongole, as on the date of issuance of B.P. Ms. No. 18.05.1997, which provided for absorption of contract labour against 50% of the existing vacancies. She claims that she being a contract labour, pursuant to the recruitment notification dated 15.05.2001, issued by the respondents, applied for the post of Sub Engineer and sought absorption against the 50% vacancies earmarked for contract labour under B.P. Ms. No. 36, dated 18.05.1997. She having been selected, was issued appointment orders dated 30.12.2002, and while working as Sub Engineer, the petitioner states that the 1st respondent by reason of the order dated 18.10.2003, impugned in this writ petition, placed her under suspension pending enquiry into the irregularities alleged against her.

While admitting the writ petition, this Court by order dated 10.11.2003, passed in W.P.M.P. No. 28983 of 2003 granted interim suspension of the impugned order. Seeking to vacate the said interim order, the respondents filed a petition in W.V.M.P. No. 3803 of 2003, which is supported with a detailed counter-affidavit sworn to by the 1st respondent.

The learned counsel for the petitioner submits that the petitioner worked for the respondents as Sub Engineer through a contractor by name Sri. Marupudi Anjaneyulu, Civil and Electrical Contractor, Ongole, during the period from 10.03.1995 to 19.12.1997. On the strength of the certificate dated 02.08.2002 issued by the said contractor, the petitioner applied for the post of Sub Engineer, and sought absorption against the 50% vacancies earmarked for absorption of contract labour under B.P. Ms. No. 36, dated 18.05.1997, and considering the said certificate, the respondents selected and appointed her as Sub Engineer vide orders dated 30.12.2002. However, the 1st respondent vide orders dated 18.10.2003, placed her under suspension alleging that she produced false experience certificate, which is illegal and arbitrary, and more so when the 1st respondent placed the petitioner under suspension, without verifying the genuinity of the certificate produced by her. He thus prayed that the impugned order be set aside and the writ petition be allowed.

Per contra, the learned Standing Counsel submitted the petitioner never worked as contract labour, and this is evident from the vigilance report of the Additional Superintendent of Police, Tirupati. Since the vigilance report, reported that the petitioner obtained employment against the 50% vacancies earmarked for contract labour under B.P. Ms. No. 36, dated 18.05.1997, by producing bogus work certificate, the 1st respondent based on the directions of the Chief General Manager, (HRD), placed the petitioner under suspension, pending enquiry into the irregularities, and no exception can be taken thereto, and more so when the petitioner has been placed under suspension to facilitate a free and fair enquiry. He thus prayed that no interference is warranted with the impugned order, and prayed for dismissal of the writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents and perused the copies of the material produced by the respondents in support of their case.

Though the petitioner contends that she is a contract labour, and that she worked with one Marupudi Anjaneyulu, Civil and Electrical Contractor, Ongole, as Sub Engineer, from 10.03.1995 to 19.12.1997, and the certificate issued by the said contractor, is genuine, the fact remains, which is evident from the counter of the respondents as also the application submitted by the petitioner in response to the recruitment notification, the petitioner in column No.5 of her application stated that she was engaged for the first time on 13.05.1998 and in column No. 6 stated that she has been working from 13.05.1998 to 29.05.2001. In fact, to evidence the that she was working from 13.05.1998 to 29.05.2001, on which day she submitted her application, she produced experience certificate dated 29.05.2001, issued by one D. Prasada Rao, Electrical Contractor, which shows that the petitioner was engaged from 13.05.1998 and that she was still working as on the date of its issuance. The Inspector of Police, Vigilance, APTS, who conducted enquiry, on 30.06.2006 reported that since the petitioner was engaged by the contractor from 13.05.1998, she was not on the rolls of the contractor on 18.05.1997, and as such, the certificate produced by her that she was engaged as on the cut off date i.e. 18.05.1997, is not correct.

As can be seen from the record, the petitioner made a representation dated 02.07.2006 stating that by mistake she did not mention about her past service from 10.03.1995 to 19.12.1997 in the application submitted by her. The Chief General Manager (HRD), vide his letter dated 02.07.2002 directed the 1st respondent to refer the representation to the Vigilance Officer, Ongole, subject to eligibility.

The Vigilance Officer, instead of conducting enquiry, has himself obtained a certificate dated 02.08.2002 from M. Anjaneyulu, Civil and Electrical Contractor, showing that the petitioner worked from 10.03.1995 to 19.12.1997 vide Agts. L.S. 85/97-98, 86/97-98 SE/O/OGL. Admittedly, the said certificate is not counter-signed by the officer under whom the works were executed by the contractor. Having obtained the certificate from the contractor, the Vigilance Officer submitted his report dated 09.08.2002 stating that the certificate issued by M. Anjaneyulu, Civil and Electrical Contractor is genuine, and that the petitioner by mistake has not mentioned the period from 10.03.1995 to 19.12.1997, worked with

M. Anjaneyulu. As this report of the Vigilance Officer, showed that the petitioner was on the rolls of the contractor as on the date of issuance of B.P. Ms. No. 36, i.e. 18.05.1997, the respondents processed the application of the petitioner and issued interview letter dated 12.09.2002, and she having attended the interview on 23.09.2002, was selected and was issued appointment order dated 30.12.2002 appointing her Sub Engineer. The petitioner in pursuance of the said appointment order, joined on 07.01.2003, but immediately on the next day i.e. 08.01.2003 and again on 04.02.2003, one Mr. Venugopal Rao, made representations to the respondents, including the Chairman of SPDCL, stating that the petitioner never worked with contractor, and that her name did not figure in the list maintained by the 1st respondent and that she obtained employment by producing false certificate.

Acting on the said representations, the Chief General Manager (HRD) on 10.06.2003 addressed a letter to the Additional Superintendent of Police, Tirupati, to enquire into the matter and submit his report. In pursuance thereof, the Inspector of Police, Vigilance and APTS, who conducted detailed enquiry reported that

Sri. P. Narsimhulu, Additional Assistant Engineer, Operation, Kothapatnam, stated that he previously worked as Additional Assistant Engineer, Operation, Giddalur, from August 1997 to August 2001 and he was kept in-charge of Racherla Section upto 12/1997, and that during his tenure Sri. M. Anjaneyulu, APSPDCL Contractor, Ongole, executed the works – providing of L.T. Conductor wiring to Distribution Transformers in Giddalur and Racherla Sections from December 1997 to February, 1998, and that during the said period no woman contract labour, much less Smt. G. Rama Devi (petitioner herein) worked in Racherla and Giddalur Sections, and that he did not issue any service experience certificates to her. He further reported that open tenders were called for in the month of June, 1997 vide Tender Notice No. SE/O/OGL/AE/T/F, Tender Specification No. 9T/97-98/D. No. 4530/97, dated 10.06.1997 for execution of the work – providing of L.T. Conductor wiring to the Distribution Transformers. The agreement was entered into to execute the works vide L.S. Agreement Nos . 85/97-98 and 86/97-98 on 19.12.1997, and thereafter, the contractor started the work and completed the same in the month of February, 1998. He thus came to the following conclusions:

1. In this connection, it is to be noted that LS Agt. No. 85/97-98 and 86/97-98 regarding the above works were actually entered into on 19.12.1997 and the works commenced thereafter. It is surprising to note that Smt. G. Rama Devi claimed as a contract labourer in the execution of the said works from 10.03.1995 to 19.12.1997 when these works actually commenced after 19.12.1997, the date on which these agreements were entered into. As such, it is clear that false experience certificate was given to her by Sri. M. Anjaneyulu, Contractor, APSPDCL, Ongole to cover the cut off date 18.05.1997 for appointment.
2. Sri. P. Narasimhulu who worked as Additional Assistant Engineer, Operation, Giddalur from August 1997 to August 2001 stated that no woman contract labour by name Smt. G. Rama Devi worked in the works vide L.S. Agt. Nos. 85/97-98 and 86/97-98.
3. The experience certificate produced by Smt. G. Rama Devi was not attested either by the then AAE/Operation/Giddalur, AE/Operation/Racherla or

ADE/Operation/Cumbum.

4. The Contractor Sri. M. Anjaneyulu could not produce any evidence as to her working as contract labour such as muster roll, acquittance register, payment of profession tax and Employees Provident Fund, which are statutorily required. He simply issued an experience certificate and pay receipts.
5. Smt. G. Rama Devi is a diploma holder in civil engineering. But she claims to have worked in the execution of providing of LT conductor wiring to Distribution Transformers.

Based on the above conclusions, he reported that the petitioner never worked as contract labour vide L.S. Agt. Nos. 85/97-98 and 86/97-98 and the experience certificate and the pay receipts issued by the contractor Sri. M. Anjaneyulu to her, are totally false.

Since the report of the Inspector of Police, Vigilance and APTS, Nellore, *prima facie* disclosed that the petitioner never worked as contract labour, and the experience certificate and the pay receipts produced by her are false, the 1st respondent on the directions of the Chief General Manager (HRD), placed the petitioner under suspension, pending departmental enquiry, and no exception can be taken thereto.

Be that as it may, suspension pending enquiry, is not a punishment. An employee is placed under suspension to facilitate a free, fair and impartial enquiry. But certainly, on the basis of the certificate, which the Inspector of Police, Vigilance and APTS, Nellore, reported it to be not genuine, the impugned suspension order cannot be interfered with by this Court. However, since the respondents are said to have already concluded the disciplinary proceedings initiated against the petitioner, they may take appropriate steps in the matter in pursuance thereof. The interim order dated 10.11.2003, passed by this Court in W.P.M.P. No. 28983 of 2003, suspending the order of suspension, stands vacated.

With the observations as above, the writ petition is dismissed.

No costs.

N.V. RAMANA, J.

Dated: 22nd March, 2007.
KSR